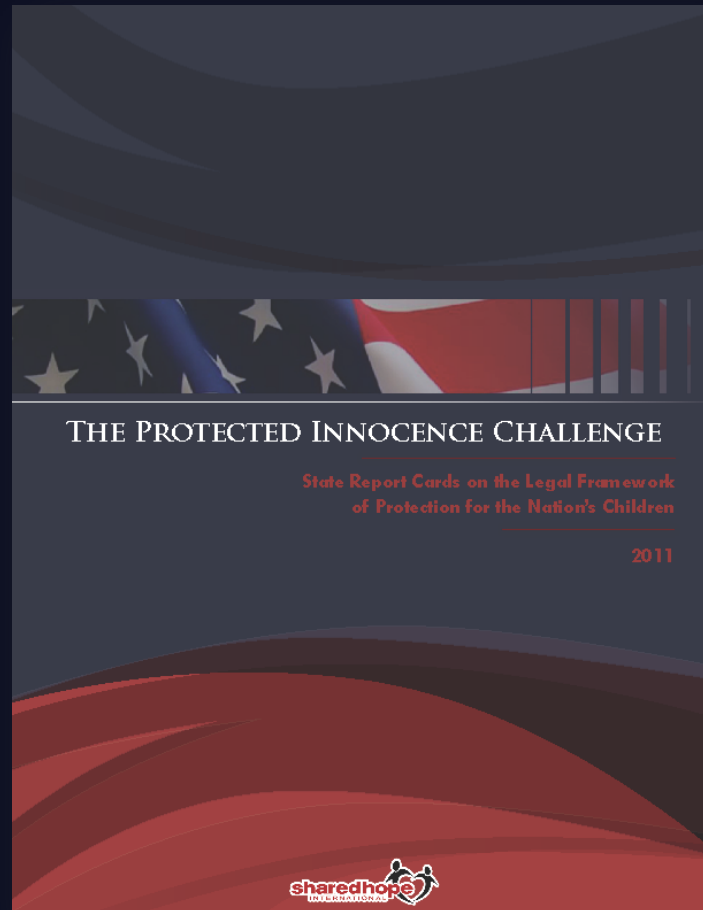
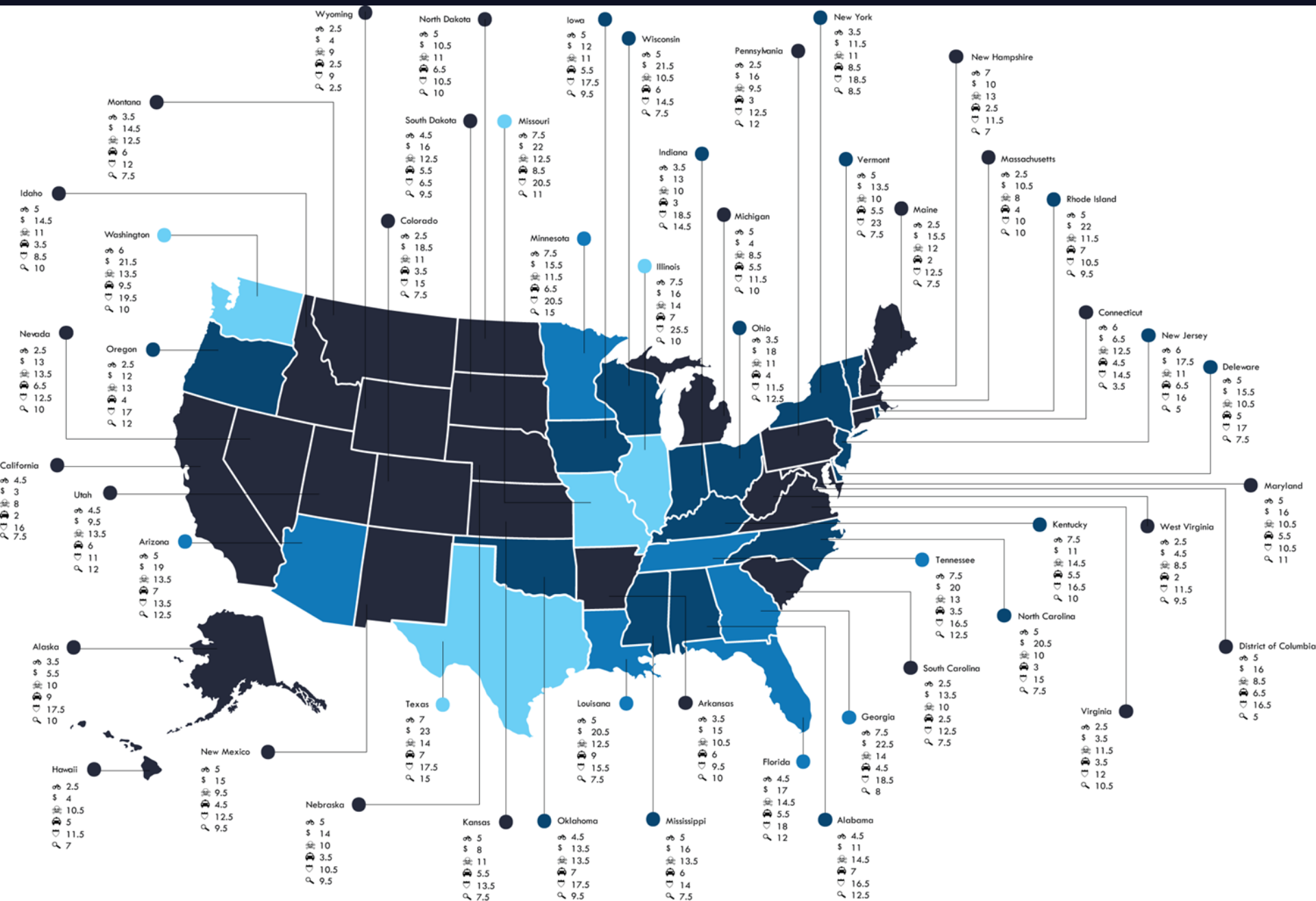
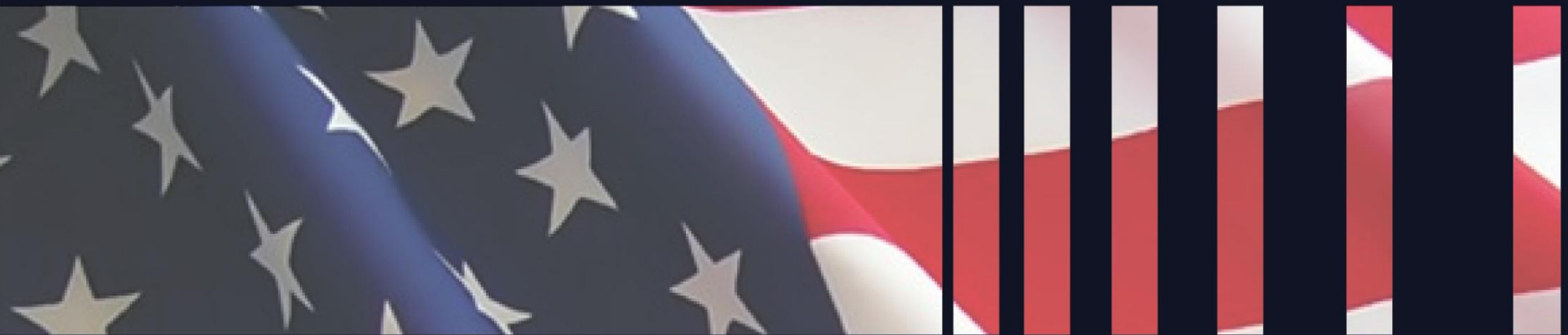


# PROTECTED INNOCENCE INITIATIVE

STATE ACTION. NATIONAL CHANGE.







# Criminalization of Domestic Minor Sex Trafficking



1.1. The state human trafficking law addresses sex trafficking and clearly defines a human trafficking victim as any minor under the age of 18 used in a commercial sex act without regard to use of force, fraud, or coercion, aligning to the federal trafficking law.

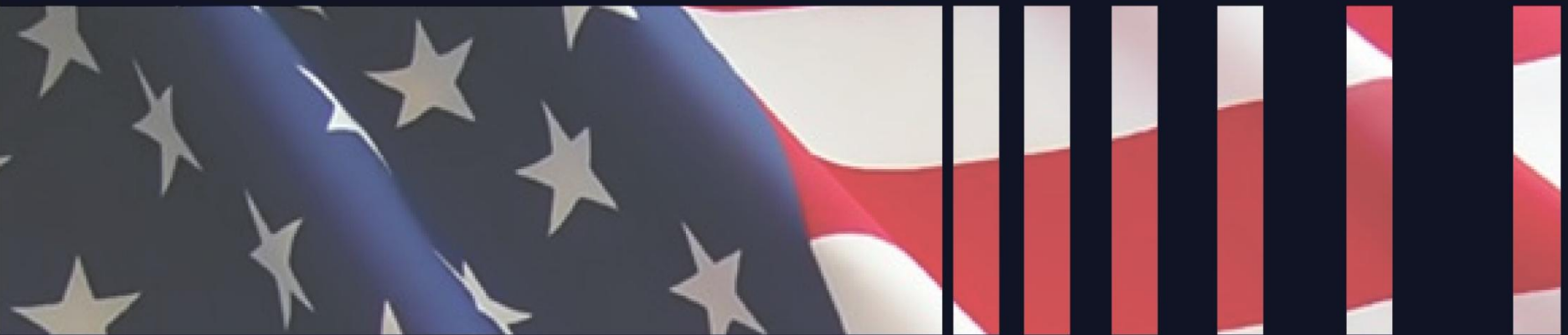
1.2 Commercial sexual exploitation of children (CSEC) is identified as a separate and distinct offense from general sexual offenses, which may also be used to prosecute those who commit commercial sex offenses against minors.

1.3 CSEC or prostitution statutes refer to the sex trafficking statute to identify the commercially sexually exploited minor as a trafficking victim.

# HOW MARYLAND SCORED:

Score: 5 out of 7.5

- Maryland's sex trafficking law clearly identifies minor victims under 18 as trafficking victims without regard to the use of force, fraud or coercion.
- Maryland has several commercial sexual exploitation of children (CSEC) laws, but these laws do not identify victims as human trafficking victims.



# Criminal Provisions Addressing Demand



2.1 The state sex trafficking law can be applied to buyers of commercial sex acts with a victim of domestic minor sex trafficking.

Example: Tex. Penal Code Ann. 20A.02(a)(8), “A person commits an offense if the person knowingly: . . . engages in sexual conduct with a child trafficked in the manner described in Subdivision (7).

2.2 Buyers of commercial sex acts with a minor can be prosecuted under CSEC laws.

2.3 Solicitation of prostitution laws differentiate between buying sex acts with an adult and buying sex acts with a minor under 18.

## 2.4 Penalties for buyers of commercial sex acts with minors are as high as federal penalties.

Crime	Sentence	Fine (possible)	Asset Forfeiture
Sexual solicitation of a minor (§3-324(b))	Felony; Max. 10 years	Max. \$25,000	No
Child pornography (online solicitation of a minor) (§11-207(a))	Felony; Max. 10 years; 20 years subsequent conviction	Max. \$25,500; \$50,000 subsequent conviction	No
Possession of child pornography (§11-208(a))	Misdemeanor, felony for subsequent conviction; Max 5 years; 10 years subsequent conviction	Max. \$2,500; \$10,000 subsequent conviction	No

2.5 Using the Internet to lure, entice, or purchase, or attempt to lure, entice, or purchase commercial sex acts with a minor is a separate crime or results in an enhanced penalty for buyers.

2.6 No age mistake defense is permitted for a buyer of commercial sex acts with any minor under 18.

Example: La. Rev. Stat. Ann. § 14:46.3 (Trafficking of children for sexual purposes) contains a provision within the criminal statute on trafficking children for sexual purposes stating simply that “[l]ack of knowledge of the victim’s age shall not be a defense to a prosecution” under this law.



2.7 Base penalties for buying sex acts with a minor are sufficiently high for all minors under 18 and not reduced for older minors.

2.8 Financial penalties for buyers of commercial sex acts with minors are sufficiently high to make it difficult for buyers to hide the crime.

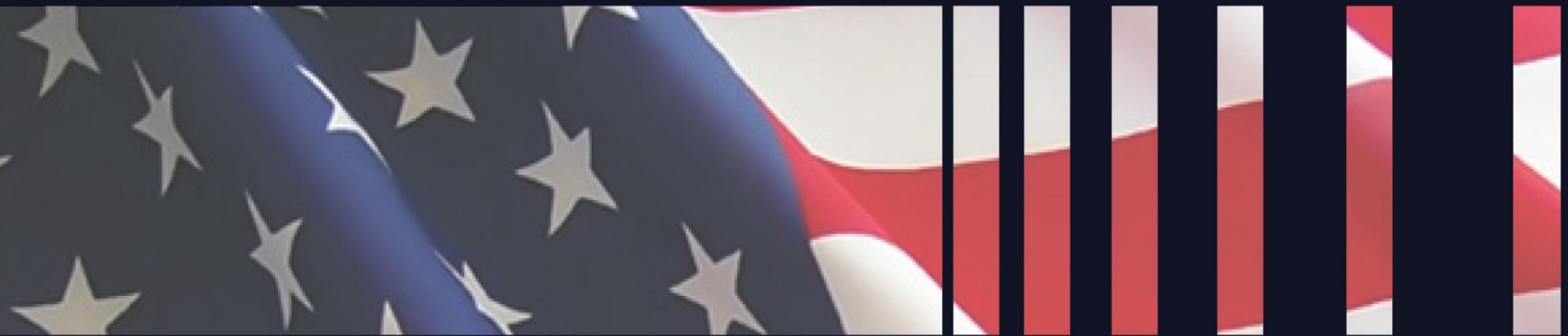
2.9 Buying and possessing child pornography carries penalties as high as similar federal offenses.

2.10 Convicted buyers of commercial sex acts with minors and child pornography are required to register as sex offenders.

# How Maryland Scored:

Score: 16 out of 25

- CSEC offenses of sexual solicitation of a minor and child pornography include the crime of buying or attempting to buy sex with a minor and solicitation laws distinguish between buying sex with an adult versus buying sex with a minor.
- Both include using the Internet to solicit a minor to engage in prostitution.
- Buyers convicted of either a CSEC offense or a prostitution offense involving a minor are required to register as sex offenders.
- The sex trafficking law does not apply to buyers of sex with minor.
- No law applicable to buyers specifically prohibits the use of a mistake of age defense.



# Criminal Provisions for Traffickers



3.1 Penalties for trafficking a child for sexual exploitation are as high as federal penalties.

3.2 Creating and distributing child pornography carries penalties as high as similar federal offenses.

3.3 Using the Internet to lure, entice, recruit, or sell commercial sex acts with a minor is a separate crime or results in an enhanced penalty for traffickers.

3.4 Financial penalties for traffickers, including asset forfeiture, are sufficiently high.

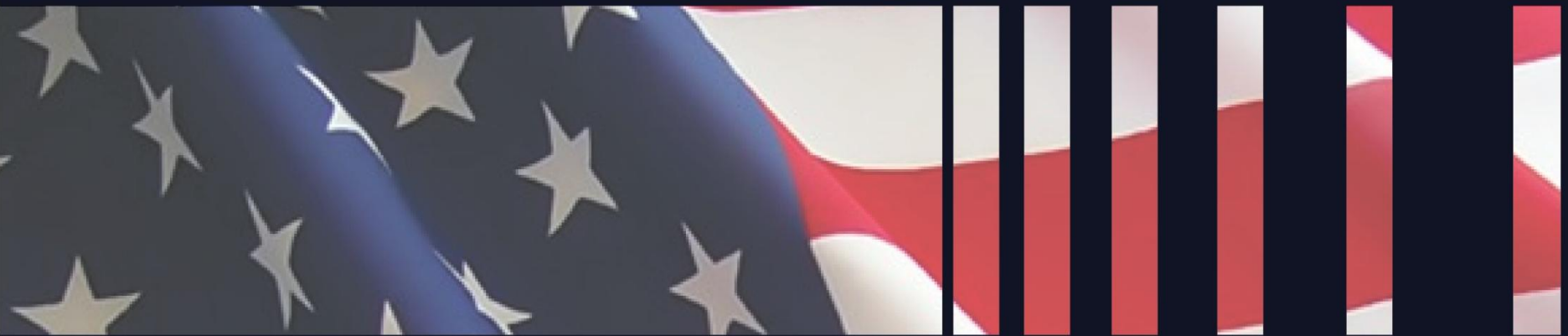
3.5 Convicted traffickers are required to register as sex offenders.

3.6 Laws relating to termination of parental rights for certain offenses include sex trafficking or CSEC offenses in order to remove the children of traffickers from their control and potential exploitation.

# How Maryland Scored

Score: 10.5 out of 15

- Traffickers must register as sex offenders for convictions of sex trafficking, CSEC offenses, and prostitution offenses involving a minor.
- Sexual solicitation of a minor, which includes using the Internet to solicit a minor to engage in sexual contact with another person, might apply to traffickers who use the Internet for this purpose, but clarifying by including sex trafficking in the purpose is recommended.
- Asset forfeiture is not available for sex trafficking offenses.
- Grounds for termination of parental rights include convictions for kidnapping, but not for sex trafficking, CSEC offenses or child pornography offenses.



# Criminal Provisions for Facilitators



4.1 The acts of assisting, enabling, or financially benefitting from child sex trafficking are included as criminal offenses in the state sex trafficking statute.

4.2 Financial penalties, including asset forfeiture laws, are in place for those who benefit financially from or aid and assist in committing domestic minor sex trafficking.

4.3 Promoting and selling child sex tourism is illegal.

Example: Wash. Rev. Code Ann. § 9.68A.102 (Promoting travel for commercial sexual abuse of a minor) states, “(1) A person commits the offense of promoting travel for commercial sexual abuse of a minor if he or she knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be commercial sexual abuse of a minor or promoting commercial sexual abuse of a minor, if occurring in this state.” The law makes the offense a felony.

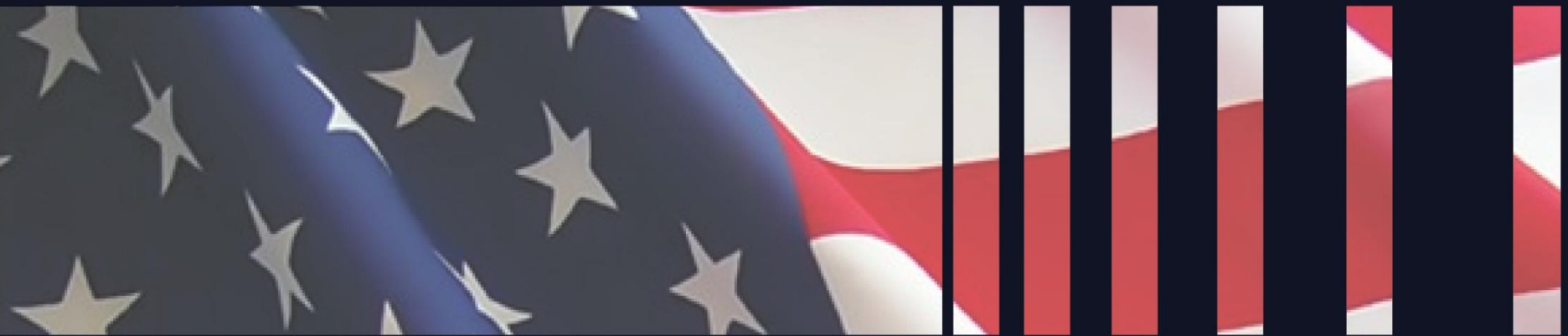
4.4 Promoting and selling child pornography is illegal.

# How Maryland Scored:

Score: 5.5 out of 10

- Facilitators are subject to prosecution under the human trafficking statute, by imprisonment up to 25 years and/or a fine up to \$15,000.
- However, asset forfeiture is not available.
- No law in Maryland addresses sex tourism.





# Protective Provisions for the Child Victims



**5.1** A victim of domestic minor sex trafficking or CSEC is defined as a victim for purposes of qualifying for crime victims compensation and other victim benefits.

**5.2** The state sex trafficking statute expressly prohibits a defendant from raising consent of the minor to the commercial sex acts as a defense.

Example: La. Rev. Stat. Ann. § 14:46.3 (Trafficking of children for sexual purposes) stipulates that “C. (1) Consent of the minor shall not be a defense to a prosecution pursuant to the provisions of this Section.”

**5.3** Prostitution laws apply only to adults, making minors under 18 specifically immune from this offense.

Tennessee Senate Bill 64 (107th General Assembly, 2011) makes minors immune from prosecution for prostitution by amending Tenn. Code Ann. § 39-13-513 (Prostitution) to state, “(d) Notwithstanding any provision of this section to the contrary, if it is determined after a reasonable detention for investigative purposes, that a person suspected of or charged with a violation of this section is under eighteen (18) years of age, that person shall be immune from prosecution for prostitution as a juvenile or adult. A law enforcement officer who takes a person under eighteen (18) years of age into custody for a suspected violation of this section shall, upon determination that the person is a minor, provide the minor with the telephone number for the national human trafficking resource center hotline and release the minor to the custody of a parent or legal guardian.”

5.4 Commercially sexually exploited children are provided with a child protection response, including specialized shelter and services, and are not detained in juvenile detention facilities.

Illinois' Safe Children Act, Public Act 96-1464, 325 Ill. Comp. Stat. Ann. 5/3 and 325 Ill. Comp. Stat. Ann. 5/5, transfers jurisdiction over minors arrested for prostitution from the criminal system to the child protection system. The law facilitates the minor's placement in temporary protective custody if necessary, including custody within a hospital or other medical facility or designated place (which may be a licensed foster home, group home or other institution) by the Department of Children and Family Services, subject to review by the judge. Temporary protective custody may *not* be in a jail or criminal or juvenile detention facility.

5.5 Commercial sexual exploitation or sex trafficking is identified as a type of abuse and neglect within child protection statutes.

5.6 The definition of "caregiver" (or similar term) in the child welfare statutes is broad enough to include a trafficker who has custody or control of a child in order to bring a trafficked child into the protection of child protective services.

## 5.7 Crime victims compensation is specifically available to a child victim of sex trafficking or CSEC without regard to ineligibility factors.

Example: In Washington, Wash. Rev. Code Ann. § 7.68.060, the state crime victims' compensation applicability statute, was amended to specifically consider the minor in the charges of commercial sexual abuse of a minor under Wash. Rev. Code Ann. § 9.68A.100, promoting commercial sexual abuse of a minor under Wash. Rev. Code Ann. § 9.68A.101, or promoting travel for commercial sexual abuse of a minor under Wash. Rev. Code Ann. § 9.68A.102, as a victim of a criminal act for the purpose of the right to benefits, even if the minor is also charged with prostitution.

## 5.8 Victim-friendly procedures and protections are provided in the trial process for minors under 18.

Domestic minor sex trafficking victims are protected from the introduction of certain evidence at trial. Pursuant to D.C. Code § 22-1839 (Reputation or opinion evidence), "In a criminal case in which a person is accused of trafficking in commercial sex, as prohibited by § 22-1833, sex trafficking of children, as prohibited by § 22-1834, or benefitting financially from human trafficking, as prohibited by § 22-1836, reputation or opinion evidence of the past sexual behavior of the alleged victim is not admissible. Evidence of an alleged victim's past sexual behavior other than reputation or opinion evidence also is not admissible, unless such evidence other than reputation or opinion evidence is admitted in accordance with § 22-3022(b), and is constitutionally required to be admitted."

**5.9** Expungement or sealing of juvenile arrest or criminal records resulting from arrests or adjudications for prostitution-related offenses committed as a result of, or in the course of, the commercial sexual exploitation of a minor is available within a reasonable time after turning 18.

**5.10** Victim restitution and civil remedies are authorized by law for minor victims of sex trafficking or CSEC.

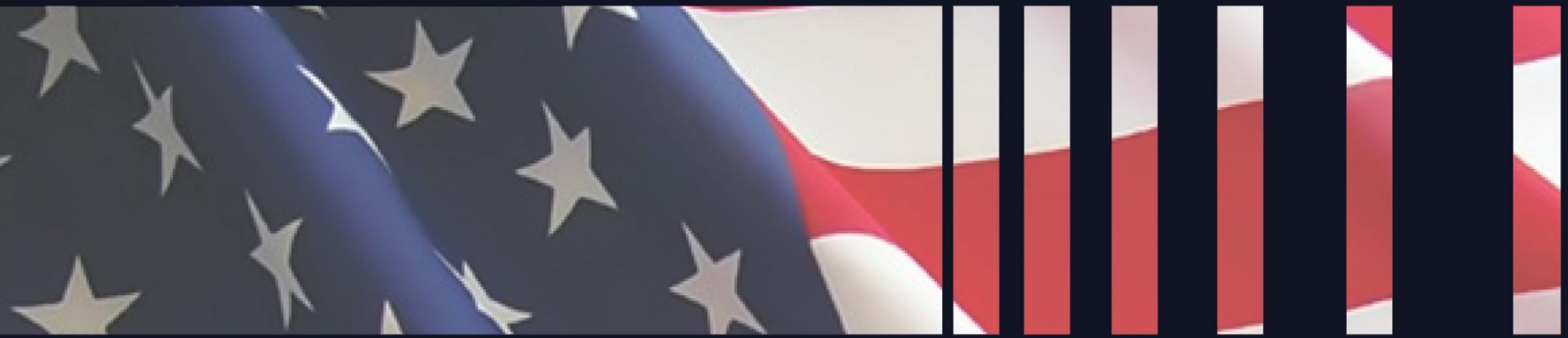
Offenders convicted of violating Vt. Stat. Ann. tit.13, § 2652(a) (Human trafficking), tit. 13, § 2653(a) (Aggravated human trafficking), or tit. 13, § 2655(a) (Solicitation) are required to pay restitution to their victims under Vt. Stat. Ann. tit. 13, § 2657 (Restitution). In addition, Vt. Stat. Ann. tit. 13, § 2662 (Private cause of action) authorizes victims of human trafficking to bring a civil claim against their offenders.

**5.11** Statutes of limitations for civil and criminal actions for child sex trafficking or CSEC offenses are eliminated or lengthened sufficiently to allow prosecutors and victims a realistic opportunity to pursue criminal action and legal remedies.

# How Maryland Scored:

Score: 16.5 out of 27.5

- The trafficking and CSEC laws are silent on admissibility of a defense based on consent of the minor.
- Minors are not immune from prosecution for prostitution offenses.
- HB 860 (2012) amended the definition of sexual abuse to include sex trafficking, child pornography, and prostitution of a child, which could in turn allow to a domestic minor sex trafficking victim being considered a Child in Need of Assistance. However, no specialized services are available.
- The “rape shield” law applies only in child abuse and sexual offense proceedings.
- Civil actions for sexual abuse of a minor must be commenced within seven years of turning 18; otherwise the general three year statute of limitations on civil actions applies.



# Criminal Justice Tools for Investigation And Prosecution



6.1 Training on human trafficking and domestic minor sex trafficking for law enforcement is statutorily mandated.

6.2 Single party consent to audiotaping is permitted in law enforcement investigations.

6.3 Domestic minor sex trafficking investigations may use wiretapping to investigate the crime.

Example: The Illinois Safe Children Act, Public Act 96-1464, amended 720 Ill. Comp. Stat. Ann. 5/14-3 (Exemptions) to add human trafficking and pimping of a minor to the list of crimes that may be subject to court-ordered interceptions under judicial supervision. Evidence collected through wiretapping is admissible in civil, criminal, and administrative proceedings.



6.4 Using a law enforcement decoy posing as a minor to investigate buying or selling of commercial sex acts is not a defense to soliciting, purchasing, or selling sex with a minor.

Example: Ariz. Rev. Stats. § 13-3212(C) (Child prostitution) prohibits a defense to prosecution for selling a minor in prostitution or for buying sex with a minor under 15, or one the defendant knows is under 18, based on the fact “that the other person is a peace officer posing as a minor or a person assisting a peace officer posing as a minor.”

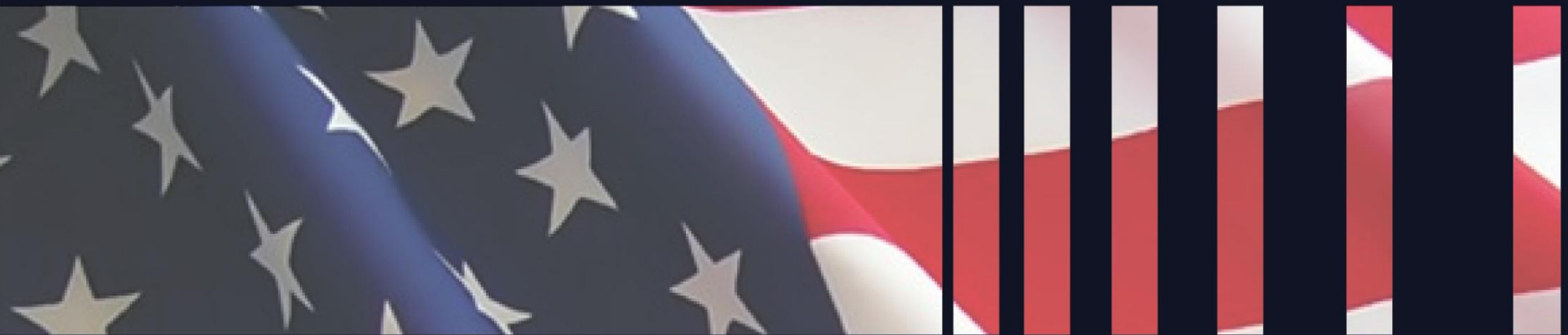
6.5 Using the Internet to investigate buyers and traffickers is a permissible investigative technique.

6.6 Law enforcement and child welfare agencies are mandated to promptly report missing and recovered children.

# How Maryland Scored:

Score: 11 out of 15

- Training on human trafficking is not mandated.
- Single party consent to audiotaping is permitted and wiretapping is permitted for investigations of sex trafficking, kidnapping, child pornography, and sexual solicitation of a minor, giving law enforcement powerful tools to investigate and collect actionable evidence for prosecutions.
- Maryland law requires law enforcement to report missing children, but does not mandate reporting of recovered children.



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